

### REMARKS

Claims 2-4, 7, 11, 17, 19-22, 25-30, 32-37 and 39 have been canceled.

Claims 5-6, 9-10, 12-13, 15-16 and 23-24 have been withdrawn from further consideration.

Claims 1, 14 and 38 have been amended.

Claims 40-43 have been added.

Claims 1, 8, 14, 18, 31, 38 and 40-43 are pending.

### **Claim Rejections**

#### 35 U.S.C. §103

The Office Action rejected Claims 1-3, 9 and 17 under 35 U.S.C. 103 for the reasons previously set forth in Paper No. 28, Section 5, pages 2-6, and the previous rejections cited in Paper No. 28, Section 5, pages 2-6.

Applicant continues to submit that U.S. Patent No. 4,598,089 to Hadvary et al relates to a lipase-blocking agent, tetrahydrolipstatin and not any compound or method that identifies anti-lipase antibodies.

Furthermore, the Final Office Action specifically states that Moloney "...specifically teaches that usefulness of a method for reducing fat content of meat and teaches that immunological methods are being used to decrease fat content of meat and that *future* (emphasis added) developments of the technology requires the identification of specific

antigenic determinants and their use as antigens to increase the efficiency of lean meat production without adverse effects on animal welfare or meat quality.” Applicant is troubled by the fact that this quoted passage is being used as a basis for a teaching or suggestion to combine with Hadvary. First, there is simply no suggestion in Hadvary to consider immunological compounds or methods for lipase-blocking. Second, Moloney simply states that immunological methods are currently being used and that future developments require identification. However, there is simply no teaching or suggestions in those statements that indicate future developments in lipase-blocking antibodies are needed. Applicant is troubled because if vague statements of future developments were used as a teaching or suggestions for obviousness rejections of patent claims then almost any new invention could be rejected on such statements and that patentees would be encouraged to add vague and baseless statements to their applications in hopes that future obviousness rejections could be made by Examiners against applications of competitors. Furthermore, even if such a statement of future developments to identify specific antigenic determinants were used as a basis of a teaching or suggestion, there really is no clear indication that such an antigen would be the anti-lipase antibodies as created by Applicant’s claimed invention.

With respect to Flint, the Final Office Action stated that the flint reference “...specifically suggests that one strategy for reducing adiposity *could* (emphasis added) involve the immunoneutralization of GI substances that have direct lipogenic effects on adipose tissues”. Applicant is once again troubled that a non-committing statement such as “could involve” is actually the basis of a teaching or suggestion in an obviousness rejection. Once again, any patentee could speculate on what could be done, which is analogous that it would have been “obvious to try”, which is not a proper basis of rejection, in order to prevent other applicants from obtaining future patents.

Therefore, Applicant strongly submits that there is no teaching or suggestion in Hadvary to allow it to be combined with Flint or Moloney. More importantly, there is no proper teachings or suggestions in Moloney or Flint that anti-lipase antibodies could be used as for fat-absorption.

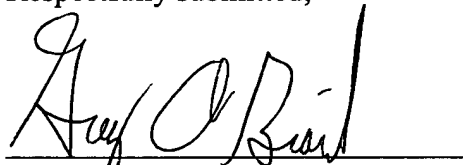
Attorney for Applicant, Greg O'Bradovich, hereby requests a telephone interview to discuss the merits of the case. Attorney for Applicant also fully understands that this case has a long prosecution history and that many additional arguments may have already been considered. Attorney for Applicant therefore believes that a telephone interview with the Examiner would prove very helpful to advance this case.

#### **New Claims**

Applicant submits that new Claims 40-43 have support in the specification.

If Examiner has any questions regarding this document, Applicant asks that Examiner contact the undersigned immediately by telephone.

Respectfully submitted,



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